

REMARKS

Reconsideration of this application as amended is respectfully requested. Claims 1-5, 7-13, 15, 16 and 46 have been cancelled. Therefore, claims 32, 33, 36-38, 40, 41, 43-45 and 47 are in this application and are presented for the Examiner's consideration in view of the following comments.

Applicants' representative thanks the Examiner for taking the time on March 3, 2003 to clarify the status of the Official Action. As a result of that conversation, Applicants' representative understands that the Official Action dated January 2, 2003 is a NON-FINAL office action as stated in paragraph number 6, on page 14 of the Official Action. As such, Applicants' representative understands that the indication on the "Office Action Summary" as being FINAL was a mistake, or alternatively, that the finality of this Official Action has been withdrawn by the Examiner.

Claims 1-5, 7-13, 15, 16 and 46 have been rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,872,588 issued February 16, 1999 to Aras et al. ("Aras") and further in view of U.S. Patent No. 4,697,209 issued September 29, 1987 to Kiewit et al. Applicants have cancelled claims 1-5, 7-13, 15, 16 and 46.

Claims 32, 33, 36, 37, 38, 40, 41, 43, 44, 45 and 47 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Aras and further in view of U.S. Patent No. 6,111,872 issued August 29, 2000 to Suematsu et al. ("Suematsu"). Applicants respectfully disagree.

Suematsu describes the use of a random number value in determining a retransmission time after a first transmission fails because of data collisions. (Suematsu, col. 14, lns. 20-33.)

Turning now to Applicants' independent claim 32, this claim requires transmitting selection history information at a

random time. With respect to this claim, Applicants respectfully submit that the Examiner's characterization of *Suematsu* and the Examiner's asserted motivation for combining *Aras* and *Suematsu* are both somewhat lacking.

With respect to the Examiner's characterization of *Suematsu*, the Examiner states that *Suematsu* describes a master station which "generates a random number value corresponding to a prescribed time from a random number generator before transmission to a destination." Applicants respectfully submit that the Examiner's summary of *Suematsu* does not mention that the random number value is only used during retransmission to avoid data collisions. (*Suematsu*, col. 14, lns. 20-33.)

Further, Applicants respectfully submit that the Examiner's assertion that "it is clearly obvious to one of ordinary skill in the art to incorporate the teaching of *Suematsu* into the system of *Aras* in order [to] avoid data collision in data transmission" is without support. Nowhere does *Aras* describe or even suggest that data collisions are a problem in the interactive television systems described and shown therein. In fact, *Aras* does not even use the phrase "data collision." As such, Applicants respectfully submit that there is no reason to modify the apparatus described in *Aras* as suggested by the Examiner to incorporate retransmissions based upon a random time value to reduce data collisions as described in *Suematsu*.

In fact, Applicants' respectfully note that the requirements of Applicants' claim 32 are not directed to random retransmission - but to the transmission of selection history information at a random time. This requirement is neither described in, nor suggested by, either *Aras* or *Suematsu* or their combination.

As a result of the above, Applicants respectfully submit that the requirements of Applicants' independent claim 32 are patentable over *Aras* in view of *Suematsu*.

Similar requirements are found in Applicants' independent claims 40 and 47.

Turning now to Applicants' independent claims 33 and 41, these claims require transmitting selection history information at a transmission time that is based on a telephone number assigned to said telephone line. With respect to this claim, Applicants respectfully submit that the Examiner's application of *Suematsu* is simply wrong.

In particular, the Examiner states that "[i]t would have been obvious to one of ordinary skill in the art that the random value could be a telephone number since randomly generated phone numbers may be used to achieve the same result." Applicants respectfully traverse for any number of reasons.

First, nowhere does *Suematsu* describe that a random number is a telephone number. Second, the Examiner has provided no reference that describes the use of telephone numbers as random numbers. Third, the Examiner has not provided any reason that one would modify the random number generator of *Suematsu* - which already provides random numbers - to now provide telephone numbers. Fourth, applicants' claim 33 requires use of "a telephone number assigned to said telephone line." Nowhere is this described or suggested in *Suematsu*.

As a result of the above, Applicants respectfully submit that Applicants' independent claims 33 and 41 are patentable over *Aras* in view of *Suematsu*.

With respect to dependent claims 38 and 45, Applicants must note the following comments by the Examiner. The Examiner states that(hereafter referred to as comment "A"):

Aras[,] fails to specifically teach [a] where the transmission timing of the broadcast-program selection history

information acquisition apparatus changes the setting of the predetermined acquisition times and/or the setting of the transmission timing based on a change command transmitted from the notification destination through the line.

The Examiner then states that (hereafter referred to as comment "B"):

Suematsu teaches a transmitter with a random number generator 114, that generates a random number value corresponding to a prescribed time before transmission to a destination. It would have been obvious to one of ordinary skill in the art that the random value could be a telephone number since randomly generated phone numbers may be used to achieve the same result.

Applicants respectfully submit that the above-quoted comments (A) and (B), taken together, make no sense with respect to Applicants' claims 38 and 45 - e.g., neither claim 38 or 45 require a telephone number.

As a result of the above, Applicants respectfully submit independent claims 32, 33, 40, 41 and 47 are patentable over *Aras* in view of *Suematsu*. Consequently, the basis for the rejection of dependent claims 36, 37, 38, 43, 44 and 45 has also been overcome.

Applicants have briefly reviewed the remaining prior art references made of record in the Official Action, but not relied upon, and believe them to be no more pertinent to the present invention than discussed in the present Official Action.

As it is believed that all of the rejections set forth in the Official Action have been fully met, favorable reconsideration and allowance are earnestly solicited. If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that the Examiner telephone Applicants' attorney at (908) 654-5000 in order to overcome any additional objections that the Examiner might have.

Application No.: 09/238,261

Docket No.: SONYJP 3.0-051

If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

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Respectfully submitted,

By

  
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